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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

NACHMAN HELBRANS and MAYER ROSNER,
Defendants.

S3 19-CR-497-01 (NSR)

S3 19-CR-497-02 (NSR)

ORDER

NELSON S. ROMÁN, United States District Judge:

A trial against *pro se* Defendants Nachman Helbrans and Mayer Rosner will begin on Monday, October 18, 2021. **The parties are hereby directed to appear at 9:00 AM on Monday, October 18, 2021 in Courtroom 218 for a supplemental final pretrial conference prior to jury selection.** Jury selection will begin immediately after this conference.

Inquiry to Confirm Continued Pro Se Representation

The Court will have a colloquy with Defendants along the lines proposed by the Government in its letter regarding Defendants' continued *pro se* representation. (See ECF No. 392.)

Defendants' Proposed Witnesses

3500 materials were due on October 1, 2021 and other trial materials, including witness lists, were due on October 12, 2021. (ECF No. 310.) The parties were reminded of these deadlines during the September 13, 2021 conference. Despite being duly notified and well in advance, Defendants did not timely file, among other things, any witness list or prior statements of any anticipated witness. Instead, during the final pretrial conference on October 13, 2021, Defendants stated their intention to call over 150 witnesses. The Court directed Defendants to provide the Court and the Government their witness list by no later than 5:00 PM on October 14, 2021 and

directed Defendants that the list must specify both the relevance of each witness's testimony and his or her availability to testify.

At 11:56 PM on October 14, 2021—hours after the deadline set by the Court—the Court received an email from an individual named Uriel Goldman, unknown to the Court, purportedly on behalf of Defendants Helbrans and M. Rosner attaching a witness and expert list. At 7:17 AM on October 15, 2021, Mr. Goldman emailed the Court an “updated” witness list containing over 250 names of proposed witnesses.¹ Insofar as Mr. Goldman provided the witness lists on behalf of Defendants Helbrans and M. Rosner, the lists are both untimely and do not contain the information required by the Court, *i.e.*, the relevance of each witness's testimony and whether he or she is available to testify at trial.

Accordingly, **when they appear on October 18, 2021, Defendants must be prepared to state succinctly and with particularity the relevance of each witness's testimony as well as whether each witness is available to testify.** As the Court noted in both its opinion on the parties' motions *in limine* and at the final pretrial conference, availability of a witness is a legal term of art defined by the federal rules of evidence and a witness is considered unavailable if the proponent of the testimony “has not been able, by process or other reasonable means” to procure the witness's presence or statement for trial. Fed. R. Evid. 804(a). Defendants are further reminded that the Court has discretion to exclude evidence that is duplicative even if it is relevant. The Government must also be prepared to present its objections to Defendants' proffered witness list during the conference.

¹ At 12:27 AM on October 15, 2021, Mr. Goldman also emailed supplemental information regarding experts Defendants intend to call to testify regarding relevant laws in Mexico and Guatemala. The Court has addressed these proposed experts by directing **Defendants to provide affidavits from these experts by NO LATER THAN 5PM on Tuesday, October 19, 2021.** (ECF No. 398.)

Standby Counsel are directed to assist the Defendants in securing any witnesses Defendants intend to present at trial. If subpoenas are presented to the Court, the Court will review them and issue them as necessary. Standby counsel are further directed to provide a copy of this order to Defendants Helbrans and M. Rosner and to file proof of service on the docket.

Dated: October 15, 2021
White Plains, New York

SO ORDERED:

A handwritten signature in dark ink, appearing to read 'Nelson S. Román', is written over a horizontal line.

NELSON S. ROMÁN
United States District Judge